

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 233 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

STOVEC INDUSTRIES LTD.

Versus

UNION OF INDIA

Appearance:

MR PARESH M DAVE for Petitioners
MR MUKESH R SHAH for Respondents.

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 11/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Rule, service of which is waived by learned Addl. Central Government Standing counsel Mr.M.R.Shah for the respondents. Upon request of the learned advocates appearing for the parties, the petition is taken up for final hearing, today.

Learned counsel for the petitioner has stated that the Commissioner (Appeals) has committed error in not restoring the appeal which was dismissed for non-compliance of the pre-deposit amount, as directed, as condition precedent for hearing the appeal, even though the requisite amount, as directed, has, subsequently, been deposited before the authority. Learned counsel for the respondents, at this stage, submits that in view of such a fact situation, restoration of the appeal and hearing on merits could be made. In the circumstances, the impugned order of the Commissioner (Appeals) is required to be quashed and set aside. Accordingly, it is quashed.

Consequently, the petition is allowed. Respondent No.2, Commissioner (Appeals) is directed to restore to file the appeal of the petitioner for hearing on merits, as expeditiously as possible. Rule is made absolute to the aforesaid extent with no order as to costs.

(J.N.Bhatt, J.)

(A.M.Kapadia, J.)

(vjn)